

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

DONALD VERBANAC,

Plaintiff,

v.

Case No. 09-C-438

DEPUTY CLAUSING and DEPUTY UHAN,

Defendants.

ORDER

Plaintiff Donald Verbanac, who is proceeding pro se in this action under 42 U.S.C. § 1983, claims that defendants violated his civil rights by placing him under arrest without probable cause and not obtaining an independent judicial determination of probable cause within 48 hours of his arrest. Verbanac is currently incarcerated at Stanley Correctional Institution. This matter is before me on Verbanac's motion to strike as untimely the defendants' answer, which has yet to be filed. (Doc. # 11.) Verbanac claims that defendants were served on May 18, 2009 and cites Fed. R. Civ. P. 12(a) in his contention that their answer to the complaint was due 20 days later. There is no indication in the record that defendants were actually served the summons and complaint under Fed. R. Civ. P. 4. The docket contains two documents indicating the defendants were mailed waiver of service forms on May 15, 2009, and that the waivers had not been executed as of June 16, 2009. (Doc. # 9, 10.) Accordingly, Verbanac's motion to strike the defendants' answer is **DENIED**.

SO ORDERED this 19th day of June, 2009.

s/ William C. Griesbach
WILLIAM C. GRIESBACH
United States District Judge